

REMARKS

INTRODUCTION:

In accordance with the foregoing, claim 15 has been cancelled, claims 4, 5, 16, and 23 have been amended, and claim 28 has been added. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1-14, and 16-28 are pending and under consideration.

ALLOWABLE SUBJECT MATTER:

In the Office Action, at page 6, the Examiner indicated that claims 25-27 are allowed, and that claims 4, 10-14, and 17-22 would be allowable if rewritten in independent form. Applicants hold rewriting of these claims in abeyance until the Examiner has had the opportunity to review the arguments presented herein.

REJECTION UNDER 35 U.S.C. §112:

In the Office Action, at page 4, the Examiner rejected claim 5 under 35 U.S.C. §112, second paragraph for the reasons set forth therein. The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

Applicants respectfully submit that the amendment of claim 5 overcomes the Examiner's rejection.

REJECTION UNDER 35 U.S.C. §102:

In the Office Action, at page 2, the Examiner rejected claims 1-3, 7-9, 15, 16, 23, and 24 under 35 U.S.C. §102(e) as being anticipated by Nagano (US 6,222,815 – hereinafter Nagano).

The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

The MPEP states: "[t]o anticipate a claim, the reference must teach every element of the claim." (MPEP 2131).

The MPEP then quotes: "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). (Quoted in MPEP 2131).

The MPEP further quotes “[t]he elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required.” *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). (Quoted in MPEP 2131).

Independent claim 1 recites: “...comparing the sampled current power value with the basic power value, the basic power value being a target value based upon a type of a medium that is to receive the output of the laser diode....”

Amended, independent claim 2 recites: “...a basic register unit storing a basic power value, the basic power value being a target value based upon a type of a medium that is to receive the output of the laser diode; an operator unit outputting a target output value applied to the laser diode based on the comparison of the current power value stored in the register unit and the basic power value stored in the basic register unit; and a pulse generator generating a control signal controlling a storage timing of the register unit based on recording data to be recorded by the laser diode.”

And amended, independent claim 23 recites: “...an operation unit outputting a target output value based upon a comparison of the sampled current value and a basic power value based upon a type of medium which is to receive the output of the laser diode....”

Nagano discloses a device that samples and holds a level of a reflection signal representative of a reflection of a recording light beam from an optical disk, makes a comparison between the level of sampled and held reflection signal and a predetermined reference value, and controls power of the recording light beam on the basis of a result of the comparison. (See Nagano, at col. 1, lines 45-59). A sample and hold circuit 5 samples and holds a level of the reflection signal. (See Nagano, at col. 2, lines 1-5, and col. 3, lines 60-63). Nagano also discloses a comparator section (comparator circuit 7) that makes the comparison. (See Nagano, at col. 2, lines 5-9, and col. 3, line 65 to col. 4, line 1).

The only disclosed example of the predetermined reference value in Nagano is an average of the sampled and held levels. (See Nagano, at col. 2, lines 54-58, and col. 3, line 65 to col. 4, line 1). Thus, the predetermined reference level of Nagano, is not related to a target value based upon a type of a disk 1 that is to receive the output of a laser diode.

Additionally, Nagano discloses a disk identifying section 13 that reads out generation timing and length of a sampling pulse from a storage section (ROMs 14 and 15, which contain tables of optimum positions and lengths of sampling pulses corresponding to various possible

types of optical disks that were determined via experimentation). The disk identifying section 13 sends the read out information to a sampling pulse generator circuit 6, which generates a sampling pulse based on the read out information. (See Nagano, at col. 4, lines 10-29).

The purpose of the storage section, the disk identifying section, and the sampling pulse generator section, which are described in Nagano as being optional (See Nagano, at col. 3, lines 4-14), is to change generation timing and length of sampling pulses in accordance with the type of the optical disk, since the reflection signal may vary in level depending on a selected recording speed, material, or a recording sensitivity of the optical disk. (See Nagano, at col. 2, line 66 to col. 3, line 4).

Nagano neither discloses nor suggests comparing the sampling pulse with the sampled and held levels, let alone doing so in the comparator circuit 7 as asserted by the Examiner.

Further, the Examiner provides no basis to assert that Nagano discloses an operator unit outputting a target output value applied to the laser diode based on the comparison of the current power value stored in the register unit and the basic power value stored in the basic register unit as claimed in claim 2.

Further still, Nagano neither discloses nor suggests that ROMS 14 and 15 and sampling pulse generator circuit 6 generate a control signal controlling a storage timing of sample and hold circuit 5 based on recording data to be recorded by the laser diode as asserted by the Examiner.

Regarding claim 3, Nagano neither discloses nor suggests that sample and hold circuit 5 is an analog/digital converter. Instead, Nagano suggests that an optical pickup section (3) which irradiates the recording light onto the optical disk functions as a converter, since the optical pickup section also receives a reflection of the recording light "to thereby generate a reflection signal." (Nagano, col. 1, line 67 to col. 2, line 1).

Regarding claim 8, signal S2 is the reflection signal S2, not a control signal as asserted by the Examiner. Additionally, the Examiner provides no basis to assert that Nagano discloses "...storing the sampled current power according to the control signal and prior to the comparing..." Further, as noted above, Nagano neither discloses nor suggests comparing the sampling pulse with the sampled and held levels, let alone doing so in the comparator circuit 7.

Regarding claim 9, Nagano neither discloses nor suggests using a marker of an optical disk for any purpose.

Thus, Applicants respectfully submit that Nagano fails to disclose every element of the claims, arranged as required by the claims.

Accordingly, Applicants respectfully submit that the Examiner has not provided sufficient evidence to maintain a prima facie anticipation rejection of claims 1-3, 7-9, 15, 16, 23, and 24.

Applicants respectfully submit that independent claims 1, 2, and 23 patentably distinguish over the cited art, and should be allowable for at least the above-mentioned reasons. Further, Applicants respectfully submit that claims 3-16, 17-22, and 24, which ultimately depend from one of independent claims 1, 2, or 23, should be allowable for at least the same reasons as claims 1, 2, and 23, as well as for the additional features recited therein.

REJECTION UNDER 35 U.S.C. §103:

In the Office Action, at page 5, the Examiner rejected claims 5 under 35 U.S.C. §103(a) as being unpatentable over Nagano in view of Arai (US 6,317,405). The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

Applicants respectfully submit that claim 5, which depends from independent claim 2, should be allowable for at least the same reasons as claim 2, as well as for the additional features recited therein.

In the Office Action, at page 6, the Examiner rejected claim 6 under 35 U.S.C. §103(a) as being unpatentable over Nagano in view of Kim et al., (US 6,781,934 – hereinafter Kim). The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicants traverse this rejection and respectfully request reconsideration.

Kim was filed in the U.S. on December 6, 2001. The subject application was filed in the U.S. on November 26, 2001, and claims the benefit of priority from Korean Patent Application No. 2001-7845 filed on February 16, 2001, in the Korean Industrial Property Office. Accordingly, Applicants respectfully submit that Kim is not a valid reference under 35 U.S.C. §102, and thus is not available for use in a rejection under 35 U.S.C. §103.

Further, Applicants respectfully submit that claim 6, which depends from independent claim 2, should be allowable for at least the same reasons as claim 2, as well as for the additional features recited therein.

NEW CLAIMS:

Applicants respectfully submit that for at least similar reasons as those stated in the section regarding the rejection under 35 U.S.C. §102, new claim 28 patentably distinguishes over the cited art and should be allowable.

CONCLUSION:

In accordance with the foregoing, Applicants respectfully submit that all outstanding rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the cited art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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